

PART 1902 - SUPERVISED BANK ACCOUNTS

Subpart A - Disbursement of Loan, Grant, and Other Funds

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PART 1902 - SUPERVISED BANK ACCOUNTS

Subpart A - Disbursement of Loan, Grant, and Other Funds

§1902.1 General.

This subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) for disbursement of funds under the Loan Disbursement System (LDS), in establishing and using supervised bank accounts, and in placing Multi-Family Housing (MFH) reserve accounts in supervised bank accounts. The LDS system provides for disbursement of funds on an as needed basis to substantially reduce interest costs to FmHA borrowers, U.S. Treasury, and FmHA. (Revised 02-25-94, SPECIAL PN.)

(a) Forms RD 1940-1, "Request for Obligation of Funds," and RD 1944-51, "Multiple Family Housing Obligation - Fund Analysis," provide for: obligation only, obligation and check request for the full amount of the loan or grant except for MFH, and obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use these forms are contained in the Forms Manual Insert (FMI) for the forms. Instructions for using Form RD 1944-51 for obligation and check request via computer terminal may also be found in the "Multiple Family Housing User Procedures." FmHA forms are available in any FmHA office. (Revised 10-14-88, SPECIAL PN.)

(b) Form RD 440-57, "Acknowledgement of Obligated Funds/Check Request," and RD 1944-57, "Multiple Family Housing Acknowledgement of Obligated Funds/Check Request," provide for: (1) the initial loan check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, (5) providing requested information from the Finance Office; and (6) for Multiple Family Housing (MFH) loans providing Maximum Debt Limit and Appraised Value. The instructions on when and how to use these forms are contained in the FMI for the forms. However, for MFH loans and grants wherever possible, obligation check requests and loan closings should be done via the computer terminal. Instructions may be found in the "Multiple Family Housing User Procedures." (Revised 5-1-85, SPECIAL PN.)

(c) See RD Instruction 2018-D for procedures to follow if checks are lost or destroyed. (Revised 11-02-94, PN 236.)

DISTRIBUTION: WSDC

General

Supervised Bank Accounts

1
(Revision 6)

(7-6-81) SPECIAL PN

RD Instruction 1902-A
§1902.1 (Cont.)

(d) Borrower as referred to in this subpart include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this subpart are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Savings and Loans referred to in this subpart are those in which deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

(g) Credit Unions referred to in this subpart are those in which deposits are insured by the National Credit Union Administration (NCUA).

(h) Financial Institutions as referred to in this subpart include banks, savings and loans, and credit unions which are covered by the proper insurance coverage cited in paragraphs (e), (f), and (g) of this section.

(i) Supervised bank accounts referred to in this subpart are bank, savings and loan, or credit union accounts established through deposit agreements entered into between either the borrower, the United States of America acting through the FmHA, and the Financial Institution on Form RD 402-1, "Deposit Agreement."
(Revised 11-15-89, PN 122.)

(j) Form RD 402-1 provides for the deposit of funds in a supervised bank account to assure the performance of the borrower's obligation to FmHA in connection with a loan and grant.
(Revised 10-14-88, SPECIAL PN.)

(k) "Interest-Bearing Deposit Agreement" (Exhibit B), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form RD 402-1. (Revised and renumbered 11-15-89, PN 122.)

§1902.2 Policies concerning disbursement of funds.

(a) The Automated Data Processing System (ADPS) will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statutes. The capability to request Treasury checks on an as needed basis reduces the need for supervised bank accounts. Therefore, supervised bank accounts will be used only in certain instances, e.g.: (Revised 05-24-90, SPECIAL PN.)

§1902.2 (a) (Cont.)

(1) When a construction loan is made and the construction is substantially completed, but a small amount is being withheld pending completion of landscaping or some similar item, or a small loan closing. In this case, the amount of funds not disbursed when the predetermined amortization effective date occurs may be placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operating (OL) loans and Emergency (EM) loans. In such cases, installment checks will be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc., as necessary. Those District and County Offices authorized to request checks by the ADPS may request more than one check at a time. If more than one check is required, a Form RD 440-57 or Form RD 1944-57 will be prepared for each check. (Revised 10-14-88, SPECIAL PN.)

(3) Association loan and grant funds made on a multiple advance basis need not be deposited in a supervised bank account unless required by State statutes or otherwise determined necessary by the Loan Approval Official.

(4) Supervised bank accounts will be used only when needed as defined in paragraph (a)(6) of this section to assure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA and other lenders when the accounts are no longer required. (Revised 10-14-88, SPECIAL PN.)

(5) Income from the sale of security or Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form RD 402-1 when the District Director or County Supervisor determines it is needed as defined in paragraph (a)(6) of this section to assure that the funds will be available for replacement of the property. (Revised 10-14-88, SPECIAL PN.)

RD Instruction 1902-A
§1902.2 (a) (Cont.)

(6) When it is determined by the County Supervisor and requested or agreed to by the borrower that special supervision is needed in the management of the borrower's financial affairs, funds may be deposited in a supervised bank account. This supervisory technique will be used for a temporary period to help the borrower learn to properly manage his/her financial affairs. Such a period will not exceed one year unless extended by the District Director. (Revised 10-14-88, SPECIAL PN.)

(7) In exceptional cases when the unincorporated EO cooperative or grazing association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in §1902.6 (and §1902.2 (f) of this Subpart if another lender is involved).

(b) For all construction loans and those loans using multiple advances, only the actual amount to be disbursed at loan closing will be requested through the State Office terminals. Subsequent checks will be ordered as needed through the ADPS system.
(Revised 10-14-88, SPECIAL PN.)

(c) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs, interest will accrue from the loan closing date or date of check whichever is later. For association and organization type loans interest will accrue from the date the check is delivered to the borrower. For all RRH, RCH, LH or RHS loans, interest will accrue from the date of the check.
(Revised 5-1-85, SPECIAL PN.)

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the FMI for Form RD 1940-1 and Form RD 1944-51 for multiple family housing, the Finance Office will forward the remaining balance to the District Director or County Supervisor for appropriate action, unless the District Director or County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the District Director or County Supervisor will process the check(s) with Form(s) RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation," (or Form RD 1944-53, "Multiple Family Housing Cancellation of U.S. Treasury Check and/or Obligation," for multiple family housing loans) in accordance with RD Instruction 2018-D.
(Revised 11-02-94, PN 236.)

(f) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors regardless of the provisions of the State laws involved. (Renumbered 11-15-89, PN 122.)

§1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s) -- full or partial-- and forward such request to be processed through State Office terminals. (Revised 9-27-89, PN 119.)

(b) When check(s) are delivered to the District or County Office, the District Director or County Supervisor will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The District Director or County Supervisor should be sure that the check is properly endorsed to insure payment to the intended recipient. Examples of such restrictive endorsements are: (Renumbered 7-12-88, PN 89.)

(1) "For Deposit Only to Account No. (Number of Construction Account) of (Name of Borrower) in (Name of Financial Institution)."
(Revised 10-14-88, SPECIAL PN.)

(2) "Pay to the order of (3rd party payee)" - (Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of_____.

(c) When necessary and only under the circumstances listed in §1902.2 the District Director or County Supervisor will establish, or cause to be established, a supervised bank account. Funds deposited in a supervised bank account are to be recorded and accounted for on Form RD 402-2, "Statement of Deposits and Withdrawals." (Renumbered 7-12-88, PN 89.)

§1902.4 Establishing MFH reserve accounts in a supervised bank account.
(Added 02-25-94, SPECIAL PN.)

(a) General requirements. All MFH borrowers required to maintain reserve accounts must place the reserve accounts in a supervised bank account(s) which meets the following requirements:

- (1) Countersignature requirements. The reserve account must require that any funds withdrawn be countersigned by an authorized FmHA official.
- (2) Restrictions on collateral. The financial institution holding the reserve account must ensure that the funds are not pledged or taken as security without the Agency's prior consent.
- (3) Interest bearing. The reserve account funds are encouraged to be maintained in an interest-bearing account. The "Interest-Bearing Deposit Agreement" set out in Exhibit B of this subpart is not required to be used for reserve accounts.
- (4) Restricted investments. Reserve funds must be placed in investments authorized in Subpart C of Part 1930 of this chapter. The authorized investments are deemed to be of acceptable risk such that the potential for any loss is minimal.
- (5) Financial institutions. The reserve account must be maintained in authorized financial institutions set out in Subpart C of Part 1930 of this chapter (e.g., banks, savings and loan institutions, credit unions, brokerage firms, mutual funds, etc.). Generally, any financial institution may be used provided invested or deposited funds are insured to protect against theft and dishonesty. The reserve account funds need not be Federally insured. However, if Federally insured, any amount held above the Federal insurance ceilings established must be backed by a pledge of collateral from the financial institution, or otherwise covered by non-Federal insurance against theft and dishonesty.
- (6) Rules where multiple projects are involved. A reserve account(s) must be maintained for each borrower. When a borrower owns multiple projects, reserve accounts may be established for each project. A single reserve account may also be established by a borrower owning multiple projects, provided the conditions set out in Subpart C of Part 1930 of this chapter are met.
- (7) Term. Reserve accounts are expected to be kept for the full term of the loan.

(b) Deposits and account activity statements.

(1) Deposits. Generally, the FmHA will not require the review or approval of deposits or the use of Form RD 402-1 or RD 402-2.

(2) Account activity statements. Generally, the FmHA will not monitor or reconcile the reserve account activity statements issued periodically by the financial institutions holding the funds. FmHA will monitor reserve account levels through budget reports, audits, and Agency reserve tracking systems. If disputes arise or the borrower is in violation of Agency regulations, the Agency may require account activity statements. When account activity statements are sought, it will normally be sufficient to obtain the statement which reflects balances as of the last activity statement ending period. Form RD 402-2 is not required to be used.

§1902.5 [Reserved]

§1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the bank is a member of the FDIC, the savings and loan is a member of the FSLIC, and the credit union is a member of the NCUA.

(b) When accounts are established, it should be determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) Agreement is reached with the financial institution regarding the place where the counter-signature will be on the checks.

(c) When possible, District Directors or County Supervisors will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

RD Instruction 1902-A
§1902.6 (Cont.)

(d) For each borrower, if the amount of any loan and grant funds, plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000, the financial institution will be required to pledge collateral for the excess over \$100,000, before the deposit is made (see §1902.7). (Revised 1-6-88, PN 74.)

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans where separate accounts will be established for each project.

RD Instruction 1902-A
§1902.6 (Cont.)

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the financial institution, and a District or County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable, will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on the applicable Deposit Agreement has previously been executed and Form RD 402-6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the financial institution.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of \$100,000, per financial institution, deposited for borrowers in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank (FRB) in an amount not less than the excess. (Revised 10-02-91, PN 175.)

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the District Director or County Supervisor will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC (banks), FSLIC (savings and loans), or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the FRB under 31 CFR Part 202 (Treasury Circular 176) to the extent necessary to secure the amount of funds being deposited in excess of \$100,000. (Revised 10-02-91, PN 175.)

RD Instruction 1902-A
§1902.7 (b) (Cont.)

(3) If the financial institution is not a member of the Federal Reserve System, it will be necessary for that financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the FRB informing them they are holding securities pledged for the supervised bank account under 31 CFR Part 202 (Treasury Circular 176). (Revised 10-02-91, PN 175.)

(c) If the financial institution agrees to pledge collateral, the District Director or County Supervisor should complete RD Form Letter 1902-A-2, "Designated Financial Institution - Collateral Pledge," in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The RD Form Letter 1902-A-2 should be forwarded to the National Office at least 30 days before the date of loan closing. (Revised 10-02-91, PN 175.)

(d) The National Office will arrange for the financial institution under its designation as a depository and financial agent of the U.S. Government to pledge the requested collateral. (Revised 10-02-91, PN 175.)

(e) If, two days before loan closing, the local FmHA office which requested the collateral has not received notification from the National Office that collateral has been pledged, contact should be made with the financial institution to ascertain whether they have pledged collateral with their local FRB under 31 CFR Part 202 (Treasury Circular 176). If the financial institution has pledged collateral, the local FmHA office should contact the National Office, Budget Division, Revolving Fund Analysis Branch who will follow-up with the local FRB concerning the collateral. (Revised 10-02-91, PN 175.)

(f) When the amount of deposit in the supervised bank account has been reduced to a point where the financial institution desires part or all of the collateral released, it should contact the National Office at the address noted above. The local FmHA office will be contacted for release authorization. The authorization release will be made through the local FRB, with notification to the financial institution. The local FmHA office may also request release through the National Office. (Revised 10-02-91, PN 175.)

§1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

District Directors or County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person listed in Exhibit B of RD Instruction 1951-B, under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals outlined in §1902.16.

§1902.9 Deposits.

(a) Deposit by FmHA personnel.

(1) Checks made payable solely to the Federal Government or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the financial institution in which the funds are to be deposited, or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed by the District Director or County Supervisor as provided in section 1951.57 (e) of this Chapter.

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the financial institution in which the supervised bank account is established or jointly to the order of the borrower and the FmHA. All such checks should be delivered or mailed to the District or County Office.

(3) If direct or insured loan funds (other than OL or EM, loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing after it has been determined that the loan can be closed. However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the financial institution or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source are deposited by FmHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distribution as follows: Original to the financial institution, one copy to the borrower, and one copy for the borrower's case folder. The names of the borrower, the sources of funds, and "Subject to FmHA Countersignature," and if applicable, the account number will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the financial institution. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

"For deposit only in the supervised bank account
of (name of borrower)
in the (name of financial institution and address when
necessary for identification) pursuant to Deposit Agreement
dated ."

RD Instruction 1902-A
§1902.9 (Cont.)

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) Deposits by borrowers. Funds in any form may be deposited in the supervised bank account by the borrower if authorized by FmHA provided the financial institution has agreed that when a deposit is made to the account by other than FmHA personnel, the financial institution will promptly deliver or mail a copy of the deposit slip to the FmHA District or County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

"For deposit only in my supervised bank account
in the (name of financial institution and address when
necessary for identification pursuant to Deposit Agreement
dated _____."

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the District Director or County Supervisor and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in §1902.9 (a) (5).

§1902.10 Withdrawals.

(a) The District Director or County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, or checks which the District Director or County Supervisor knows to be good, or until the deposit checks have cleared.

(b) Withdrawals of funds deposited under the applicable deposit agreement are permitted only by order of the borrower and countersignature of authorized FmHA personnel, or upon written demand on the financial institution by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form RD 402-1. (Revised 11-15-89, PN 122)

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form RD 402-2 and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and a determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from personal funds, a check for this purpose may be drawn on the supervised bank account to meet these loanmaking requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower, District Director or County Supervisor would be involved, or purchase would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the District Director or County

RD Instruction 1902-A
§1902.10 (d)(3) (Cont.)

Supervisor must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before counter-signature will bear the following legend in addition to the legend for countersignature: "Valid only upon countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or a representative to the District or County Office of the FmHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number, and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

"Countersigned," not as co-maker or endorser.

(Title)
Farmers Home Administration

§1902.11 District and County Office records.

A record of funds deposited in a supervised bank account will be maintained on Form RD 402-2 in accordance with the FMI. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form RD 402-2 so that they can be clearly identified. (Revised 4-16-86, PN 7.)

§§1902.12 - 1902.13 [Reserved]

§1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If the checking statement does not include sufficient information to reconcile the account (the name of the payee or the check number and the amount of each check, i.e., a negotiable demand draft drawn on a financial institution), the original cancelled check or either a microfilm copy or other reasonable facsimile of the cancelled check must be provided to the District or County Office with the statement. Checking account statements will be reconciled promptly with District or County Office records. The person making the reconciliation will initial the record and indicate the date of the action. (Revised 05-24-90, SPECIAL PN)

(b) All checking account statements and, if necessary, original cancelled checks or either a microfilm copy or other reasonable facsimile of the cancelled checks will be forwarded immediately to the borrower when bank statements and District or County Office records are in agreement. If a transmittal is used, Form RD 140-4, "Transmittal of Documents," is prescribed for that purpose.

(c) If the Financial Institution did not return the original cancelled check(s) to the Agency with the statements, and FmHA has a need for the original cancelled check(s), the Financial Institution, upon request by the Agency, will furnish to the Agency the requested original cancelled check(s) or a certified microfilmed copy or other reasonable certified facsimile of the cancelled check(s) and will provide this service to the Farmers Home Administration with no fees being assessed the Agency or the Depositor's account for the service.

§1902.15 Closing accounts.

When FmHA loans or grant funds and those of any other lender or grantor have all been properly expended or withdrawn, Form RD 402-6 may be used to give FmHA's consent (and or another lender or grantor, if involved) to close the supervised bank account in the following situations: (Revised 1-6-88, PN 74.)

(a) When FmHA loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

RD Instruction 1902-A
§1902.15 (Cont.)

(b) For all loan accounts, except loans listed in §1902.15 (c) of this section, after completion of authorized loan funds expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate. (Revised 1-6-88, PN 74.)

(c) For Community Facility, Water and Waste Disposal, Indian Land Acquisition, Watershed (WS), Organizational Rural Rental Housing (RRH), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Organizational Labor Housing (LH) loan and grant accounts, when the funds have been expended in accordance with the requirements of Part 1942, Subpart A, the supervised bank account will be closed within 90 days following completion of development, unless an extension of time is authorized in writing by the District Director. If the borrower will not agree to close the account, the District Director or County Supervisor will request the State Director to make demand upon the financial institution in accordance with §1902.16. (Revised 11-8-89, PN 121)

(d) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as "active."

(1) Deceased borrowers.

(i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor's name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA's counter-signature and the joint debtor's signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated

balances of funds from other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) Borrowers in default. Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank is to be closed, the District Director or County Supervisor will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA indebtedness, or

(ii) As refunds of any obligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) Inactive borrowers. An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "active."

(4) Paid up borrowers. A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the District Director or County Supervisor will (i) notify the borrower in writing that the interests in the account of FmHA have been terminated, and (ii) inform the borrower of the balance remaining in the supervised bank account.

§1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

- (a) Name of borrower as it appears on the applicable Deposit Agreement.
- (b) Name and location of financial institution.
- (c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.
- (d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA's.
- (e) Other pertinent information including reasons for the withdrawal.

§§1902.17 - 1902.49 [Reserved]

§1902.50 OMB control number. (Added 02-25-94, SPECIAL PN.)

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0158. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 1-1/2 hours per response, with an average of 0.42 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0158), Washington, DC 20503.

Exhibits to Subpart A

Exhibit A - [Reserved]

Exhibit B - Interest-Bearing Deposit Agreement

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UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

INTEREST-BEARING DEPOSIT AGREEMENT

BECAUSE Certain funds of _____ referred to as the "Depositor," are now on deposit with the _____ referred to as the "Financial Institution," under a Deposit Agreement dated _____, 19__, providing for supervision by the United States of America, acting through the Farmers Home Administration, referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interest in the funds covered by that Deposit Agreement, and

BECAUSE certain of these funds are not now required for immediate disbursement and it is the desire of the Depositor to place these funds in interest-bearing deposits with the Financial Institution:

THEREFORE, the Depositor and the Government authorize and direct the Financial Institution to place _____ Dollars (\$_____) of the funds subject to that Deposit Agreement in interest-bearing deposits as follows:

\$ _____ for a period of _____ months at _____% interest

\$ _____ for a period of _____ months at _____% interest

\$ _____ for a period of _____ months at _____% interest

These interest bearing deposits and the income earned on them at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion of the balance, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____, 19__.

UNITED STATES OF AMERICA

(Depositor)

By: _____

By: _____

County Supervisor
Farmers Home Administration
U.S. Department of Agriculture

Title: _____

Accepted on the above terms and conditions this _____ day of
_____, 19__.

(Financial Institution)

(Office or Branch)

By: _____

Title: _____

Position 2

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